

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RONALD ALLEN HAILES,

Plaintiff,

v.

CASE NO. 09-3058-SAC

DAVID R. MCKUNE,
et al.,

Defendants.

O R D E R

In this civil action filed pursuant to 42 U.S.C. § 1983, the court entered an Order on March 17, 2009, finding plaintiff is a three-strikes litigant under 28 U.S.C. § 1915(g), and had not alleged facts suggesting he is in imminent danger of serious physical injury. The court therefore denied Mr. Hailes' application for leave to proceed in forma pauperis, granted him time to submit the filing fee herein of \$350.00, and ordered that should he fail to pay the full filing fee within that time, this action would be dismissed without prejudice.

Plaintiff has filed a Motion to Reconsider (Doc. 4) the court's denial of his motion to proceed in forma pauperis. Therein, he challenges two of the "strikes" cited by the court, namely Case No. 92-3077 and Case No. 93-3541. As the basis for his challenge, he states, I "avow that I never filed such cases, nor do I recollect any of these proceedings." He further states that he believes these cases "were filed by an unknow (sic) person(s), to hinder any more legal proceedings and/or case filed by myself."

The court has recalled the files of the two cases in question from the federal records center. Having examined those

files, the court finds that the prison number of the Ronald A. Hailes who was plaintiff in each of those prior cases is the same as the prison number of the plaintiff Ronald A. Hailes in the instant case. The court further finds that the signatures in the prior cases are similar to plaintiff's signature herein. The court further finds that plaintiff admits having sued Judge Fred Jackson, who is the defendant in each of the prior cases. The court concludes that plaintiff's challenges to his two prior cases counted as strikes herein have no merit. Moreover, plaintiff's failure to recall filing these cases does not prevent their use as strikes under § 1915(g).

The time in which plaintiff was ordered to pay the filing fee in this action has expired, and he has not submitted the fee or established good cause for that failure. Accordingly, the court finds this action must be dismissed, without prejudice, on account of plaintiff's failure to pay the filing fee.

IT IS THEREFORE ORDERED that plaintiff's motion to reconsider (Doc. 4) is denied.

IT IS FURTHER ORDERED that this action is dismissed, without prejudice, due to plaintiff's failure to pay the filing fee as ordered.

IT IS SO ORDERED.

Dated this 29th day of April, 2009, at Topeka, Kansas.

s/Sam A. Crow

U. S. Senior District Judge